

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
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IN THE MATTER OF:

THE PETITION OF CARIN ROCKIND AS OWNER
OF THE VESSEL ROCK STAR FOR
EXONERATION FROM OR LIMITATION
OF LIABILITY IN ADMIRALTY

JUDGE

JUDGE NUGENT

MAG. WHITE

Petitioner.

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**PETITION OF CARIN ROCKIND AS OWNER OF THE
VESSEL "ROCK STAR" FOR EXONERATION FROM
OR LIMITATION OF LIABILITY IN ADMIRALTY**

Petitioner Carin Rockind, as owner of the 19 foot long, 1996 Maxum 1900 SR "Rock Star", Ohio Registration Number OH9816EE, her engines, tackle, machinery, apparel, furniture, etc., brings this action, civil and maritime, for exoneration from or limitation of liability under the Act of October 6, 2006, Pub. L. 109-304, sec 6(c) §§30501-30512, 120 Stat. 1485,

151201516 (codified as 46 USC §30501 *et seq.*)(formerly known as the Limitation of Liability Act, 46 USCS §183, *et seq.*), and complains and alleges as follows:

1. This is an admiralty and maritime proceeding within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

2. Petitioner Carin Rockind is a citizen and resident of Philadelphia, Pennsylvania. At all material times she was the sole owner of the vessel "Rock Star."

3. The "Rock Star," Ohio Registration Number OH9816EE, is a 19 foot long 1996 Maxum 1900 SR. At all times material hereto, the said vessel was tight, staunch, strong, fully equipped and supplied, and in all respects seaworthy and fit for the service in which she was engaged.

4. At all material times, Petitioner Carin Rockind was and is in sole possession of the "Rock Star," her engines, tackle, machinery, apparel, furniture, etc., and operated said vessel, and was the owner thereof within the meaning of 46 USC §30501 *et seq.*

5. Petitioner Carin Rockind, as owner of the "Rock Star," at all material times exercised due diligence to make said vessel in all respects seaworthy, properly equipped, supplied and furnished, and in all respects fit for commerce and navigation upon the Great Lakes and their connecting and tributary waters.

6. On July 24, 2010, Petitioner Carin Rockind and Edwin Acosta, Sr. embarked upon the "Rock Star" at Petitioner's dock at Lakeside Yacht Club for a pleasure trip to swim in Lake Erie.

7. Petitioner stopped the vessel "Rock Star" a distance estimated at one mile outside the Cleveland breakwall.

8. Mr. Acosta, who had told Petitioner that he was a strong swimmer, voluntarily jumped into the water to swim without a life jacket or other personal flotation device.

9. After a short time Mr. Acosta told Petitioner he was tired. Petitioner pulled her boat close to Mr. Acosta and passed a rope to Mr. Acosta. He did not take the rope. He then disappeared underwater. Petitioner called the Coast Guard, who responded immediately. An extensive search did not find Mr. Acosta.

10. The aforesaid incident and any loss, injury or damage resulting therefrom were not caused or contributed to by any fault, neglect or want of care on the part of Petitioner Carin Rockind, as owner and operator of the vessel "Rock Star," or the vessel itself.

11. The aforesaid incident and any loss, injury or damage resulting therefrom were occasioned and incurred without the privity or knowledge of Petitioner Carin Rockind.

12. The value of the vessel "Rock Star" at the termination of the voyage on July 24, 2010, has been determined by an expert marine surveyor to be \$5,400.00, subject to any further appraisal. The vessel was not carrying cargo at the time and accordingly there was no freight pending.

13. There are no demands, unsatisfied liens or claims against the vessel "Rock Star." One suit has been filed in the Court of Common Pleas, Cuyahoga County, arising out of said voyage entitled "Edwin Acosta Jr., et al., Plaintiffs v. Carin Rockind, Defendant, Case No. CV-11-745051.

14. Petitioner's insurer has received a written notice of a claim for damages under which this Petition must be filed by June 6, 2011.

15. Petitioner Carin Rockind, as owner of the "Rock Star," claims exoneration from liability for any and all loss, injury or damage arising out of the incident described herein, and for any claims for damages that may hereafter be made, and Petitioner alleges that she has valid defenses thereto on the facts and the law. Petitioner further claims the benefit of the limitation of

liability provided for in 46 USC §30501 *et seq.* and the statutes supplementary thereto and amendatory thereof.

16. Petitioner stands ready to file herein a letter of undertaking as surety for the payment into court of the amount or value of her interest in the vessel "Rock Star" at the conclusion of the voyage as aforesaid, whenever the same shall be ordered as provided by statute or required by the rules and practice of this Court sitting in admiralty.

17. This Petition has been filed within six months from the date of first notice of any claim in writing.

18. All and singular, the premises are true and within the admiralty and maritime jurisdiction of this Honorable Court.

WHEREFORE, Petitioner Carin Rockind prays for the following relief:

a. That this Court enter an order directing Petitioner to file a letter of undertaking as surety for the payment into Court of the amount of Petitioner's interest in the "Rock Star" immediately following the aforementioned incident, whenever the Court shall so order.

b. That this Court enter an order directing the issuance of a Monition to all persons claiming damages for any and all loss, injury or damage caused by or resulting from the aforesaid occurrence, citing them and each of them to appear and make due proof of their respective claims, and also to appear and answer the allegations of this Petition according to the law and practice of this Court on or before a certain time to be fixed by said Monition, and further directing that said notice be published in such newspaper or newspapers of general circulation as the Court may direct in accordance with Supplemental Admiralty Rule F(4) of the Federal Rules of Civil Procedure.

c. That this Court enter an order directing that upon the giving of such stipulation as may be determined to be proper, or of an Ad Interim Stipulation for the payment into court of the

amount of Petitioner's interest in the "Rock Star," an injunction shall issue restraining the prosecution of any and all suits, actions and proceedings to recover damages arising out of, occasioned by, or consequent upon the aforesaid incident described in this Petition, and enjoining the commencement or prosecution thereafter of any suits, actions or legal proceedings of any nature or description whatsoever, except in the present proceedings against the Petitioner or the vessel "Rock Star," her engines etc., in respect of any claim or claims arising out of the aforesaid incident.

d. That this Court adjudge and decree that the Petitioner is not liable to any extent for any loss, injury or damage, or for any claim therefore in any way arising out of or in consequence of said incident.

e. That if the Petitioner shall be adjudged liable to any extent in the premises, then such liability be limited to the amount or value of the Petitioner's interest in the vessel "Rock Star" at the end of the voyage on which she was engaged at the time said incident occurred, and that Petitioner be discharged therefrom upon the surrender of such interest in said "Rock Star," and her pending freight, if any, and that the money paid or secured to be paid as aforesaid be divided *pro rata* among such claimants as may duly prove their claims in accordance with the provisions in the order hereinabove prayed for, saving to all parties any priorities to which they may legally be entitled, and that a decree may be entered discharging the Petitioner and the said "Rock Star" from all further liability.

f. That Petitioner Carin Rockind may have such other, further and different relief as may be just in the premises.

Respectfully submitted,

RAY, ROBINSON, CARLE & DAVIES P.L.L.

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